

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**LABORERS' PENSION FUND, and
LABORERS' WELFARE FUND OF THE
HEALTH AND WELFARE
DEPARTMENT OF THE
CONSTRUCTION AND GENERAL
LABORERS' DISTRICT COUNCIL OF
CHICAGO AND VICINITY, and
LABORERS' DISTRICT COUNCIL
RETIREE HEALTH AND WELFARE
FUND, CATHERINE WENSKUS,
Administrator of the Funds, and THE
CONSTRUCTION AND GENERAL
LABORERS' DISTRICT COUNCIL OF
CHICAGO AND VICINITY,**
Plaintiffs.

Case No. 21-cv-4790

Judge John F. Kness

v.

RAI Concrete, Inc.,
Defendant.

PLAINTIFF'S INITIAL STATUS REPORT UNDER RULE 26(f)

NOW COME Plaintiffs, the Construction and General Laborers' District Council of Chicago and Vicinity (the "District Council" or the "Union"), by its attorney, Joanna Barrera, and the Laborers' Pension Fund, Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity, the Chicago Laborers District Council Retiree Health and Welfare Fund, and Catherine Wenskus, not individually, but as Administrator of the Funds, (herein after referred to as the "Funds,") by their attorneys, Patrick T. Wallace, and Katherine Mosenson, submit Plaintiffs' Initial Status Report. In support of this Report, Plaintiffs state as follows:

I. Nature of the Case

A. Attorney for Plaintiffs:

Patrick T. Wallace (Trial Counsel)
Katherine Mosenson
Office of Fund Counsel
Laborers' Pension and Welfare Funds
111 W. Jackson Blvd., Suite 1415
Chicago, IL 60604

Joanna Barrera
The Construction and General
Laborers' District Council of Chicago
And Vicinity
999 McClintock Drive, Suite 300
Burr Ridge, IL 60527

Attorney for Defendant:

No attorney has filed an appearance for Defendant.

- B. Jurisdiction is based on Section 301(a) and (c) of the Labor Management Relations Act ("LMRA") of 1947 as amended, 29 U.S.C. §185(a) and (c).
- C. Plaintiffs filed their Complaint on September 9, 2021, against RAI, seeking to enforce an award entered by a joint labor-management committee known as the Joint Adjustment Board ("JAB") against the Company. The JAB held a grievance hearing on February 11, 2021, pursuant to a grievance the District Council filed against RAI alleging the underpayment of wages and fringe benefits, audit fees and all accumulated associated late fees and costs based on a wage and fringe benefit audit conducted on the Company's books and records for the period of January 1, 2015 through February 28, 2019 ("audit period"). By majority decision, the JAB upheld the grievance in its entirety and provided the Company with seven (7) days to comply with the award. The Company has failed to comply with the award issued by JAB ("JAB Award") within the allotted time period and as such, Plaintiffs' Complaint seeks to enforce the JAB Award.
- D. Plaintiffs assert that Defendant failed to comply with the Award issued by JAB and seek its enforcement.
- E. The principal factual and legal issue is whether the court should enforce the JAB Award.
- G. The relief Plaintiffs seek is as follows:

Enforcement of the JAB Award, which includes payment of \$639,102.11 to the employees identified in the wage audit conducted on the Company's books and records during the audit period; payment of \$319,551.06 in liquidated damages to the Laborers District Council Charitable Foundation; payment of \$950 in audit costs to be paid to the Laborers' District Council; payment of \$1,415,739.56 to be paid to the Laborers' Pension & Welfare Funds; payment of \$88.80 to Roman Manriquez; payment of \$88.80 to Juan Jose Sotelo; and an additional ten percent (10%) in liquidated damages for failure to comply with the JAB Award within seven (7) days. In addition, Plaintiffs seek payment of all of Plaintiffs' court costs and reasonable attorney's fees.

- H. Defendant were unable to be served initially. Service was filed with the Secretary of State on October 12, 2021.

II. Discovery

- A. Plaintiffs do not anticipate any discovery being needed; however, Plaintiffs requests for close of discovery to be ninety days. Plaintiffs believe that this matter is ripe for disposition on a motion for summary judgment. If parties are unable to reach a resolution, the parties will likely submit a briefing order and a motion for summary judgment.
- B. At this time the Plaintiffs don't expect to take any depositions.
- C. At this time the Plaintiffs don't foresee any special issues during discovery.

III. Trial

- A. Plaintiffs have not demanded a jury trial.

IV. Settlement, Referrals, and Consent

- A. There's another matter pending in the District Court involving the Funds and Defendant, *Laborers' Pension Fund, et al. v. RAI Concrete, Inc., et al.*, Case No. 17 CV 8748. A settlement conference has been scheduled for February 18, 2022, before the Honorable Jeffrey Cummings in the above-mentioned matter. All parties in this matter will be attending the February 18, 2022 settlement conference to attempt to globally resolve all issues related to both litigations.
- B. Plaintiffs do not request a settlement conference at this time because Plaintiffs will take part of a settlement conference on February 18, 2022.
- C. Plaintiffs do not at this time consent to proceed before the Magistrate Judge.

Respectfully submitted,

The Construction and General Laborers' District Council of
Chicago and Vicinity

By: /s/ Joanna Barrera

January 21, 2022

Laborers' District Council
999 McClintock Drive, Suite 300
Burr Ridge, IL 60527
(630)655-8289

Laborers' Pension Fund, et al.

By: /s/ Patrick T. Wallace

January 21, 2022

Office of Fund Counsel
111 W Jackson Blvd., Suite 1415
Chicago, IL 60604

CERTIFICATE OF SERVICE

The undersigned certifies that she caused a copy of the foregoing Plaintiffs' Initial Status Report Under Rule 26(f) to be served upon the following person via the U.S. Postal Service this 21st day of January, 2022.

RAI Concrete, Inc.
1827 Blackhawk Dr.,
West Chicago, IL 60185

/s/ Joanna Barrera